

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RAMON ALVARADO, JR.,

Plaintiff,

v.

Case No. 22-CV-289

JESSE JONES, *et al.*,

Defendants.

ORDER

On July 28, 2023, *pro se* plaintiff Ramon Alvarado, Jr. filed a motion to stay the scheduling order and a motion to reconsider the screening of his complaint. The court already stayed the case deadlines via text only order on June 12, 2023, so the motion to stay is denied as moot.

As for reconsidering its screening order, Alvarado argues that the court should allow him to proceed on a Fourteenth Amendment due process claim because Westra did not allow him to view a video that potentially contained exculpatory evidence. He stated that he said as much in his original complaint. The court does not need to revise its screening order to reflect this claim because Alvarado is already allowed to proceed such a Fourteenth Amendment due process claim against Westra. In its screening order, the court allowed Alvarado to proceed against Westra and Jones on a Fourteenth Amendment claim because they “denied him the ability to present

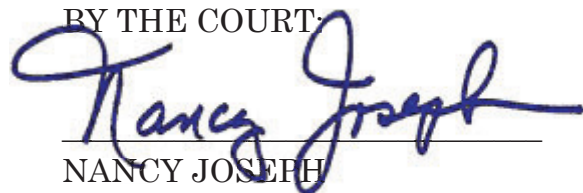
potentially exculpatory video.” (ECF No. 10 at 5.) The Fourteenth Amendment claim would encompass Alvarado’s allegation that he was not allowed to view the video because that would explain *how* the defendants denied him the ability to present potentially exculpatory evidence. As such, the motion to reconsider is unnecessary.

The court notes that Alvarado filed this motion after the defendants filed a motion for summary judgment on exhaustion grounds. The court has briefly reviewed the defendants’ motion and notes that the defendants make much of the fact that Alvarado only complained through the inmate complaint review system that he was unable to view the video. While the court is not yet prepared to resolve the motion for summary judgment on exhaustion grounds, the defendants may want to revisit their motion in light of the clarification of the Fourteenth Amendment claim provided by this order.

IT IS THEREFORE ORDERED that Alvarado’s motion to stay and his motion for reconsideration (ECF No. 50) are **DENIED as moot**.

Dated at Milwaukee, Wisconsin this 13th day of September, 2023.

BY THE COURT:

A handwritten signature in blue ink, reading "Nancy Joseph", written over a horizontal line.

NANCY JOSEPH

United States Magistrate Judge